

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

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FILE: B-212670**DATE:** January 17, 1984**MATTER OF:** Mark Radke

DIGEST: Where an employee requests that his annual and sick leave accounts be adjusted to correct alleged errors made in certifying his leave balances at the time of his transfer from Okinawa to Korea in 1975, the determination to adjust his leave accounts and the determination of the amount of leave to be credited are matters primarily for the employing agency. Where official leave records are not available, the agency may consider appropriate secondary records such as Time and Attendance Reports, Leave and Earnings Statements, personal leave records, or statements of supervisors or timekeepers.

The issue presented by the Department of the Army is whether the annual and sick leave accounts of an employee may be adjusted on the basis of secondary evidence when there are no official leave records from which to reconstruct the employee's leave records. The employee's leave records may be adjusted on the basis of the secondary evidence provided.

Mr. Mark Radke, an employee of the Department of the Army, has requested restoration of 320 hours of annual leave and 80 hours of sick leave which he alleges was not properly credited to his account following his transfer from Okinawa to Korea on September 11, 1975. Noting that there is no evidence that indicates that Mr. Radke actually used the leave and that he has consistently attempted to have the leave restored, the Army does not object to adjusting the leave balances. However, it questions whether the adjustment may be based on secondary evidence since the relevant leave records have been destroyed.

Mr. Radke documents his claim with secondary leave records in his possession. These include copies of four

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Leave and Earnings Statements and a copy of an SF-1150, "Record of Leave Data." These documents show his annual and sick leave balances as follows:

<u>Form</u>	<u>Date</u>	<u>Annual</u>	<u>Sick</u>
LEB	6-22-74	363	929
LES	4-12-75	128	76
LES	4-26-75	412	1021
LES	5-10-75	420	1025
SF-1150	10- 8-75	92	1033

Statements supplied by Mr. Radke and his supervisor show that the Leave and Earnings Statement dated June 22, 1974, was issued at Fort Benning, Georgia, prior to his transfer on June 23, 1974, to Fort Buckner, Okinawa. The Leave and Earnings Statement dated April 12, 1975, reflects only that leave which accrued after his transfer to Fort Buckner. The next two statements show corrected balances, including leave accrued while in Okinawa and the leave balances transferred from Fort Benning. The balances reflected on these two statements are not questioned. Mr. Radke states, and his supervisor confirms, that after the issuance of the statements dated May 10, 1975, Leave and Earnings Statements were no longer furnished to employees. The supervisor further states that after May 11, 1975, Mr. Radke could not have determined the accuracy of his leave account without specifically requesting a report from the civilian personnel office in Japan.

On September 11, 1975, Mr. Radke was transferred from Okinawa to Pusan, Korea. Incident to that transfer, an SF-1150, "Record of Leave Data," was requested from the personnel office in Japan. It shows that as of September 10, 1975, Mr. Radke had to his credit 92 hours of annual leave and 1,033 hours of sick leave. It also shows that during the leave year beginning in 1975 he used 404 hours of annual leave and 24 hours of sick leave. Mr. Radke states that the correct balances should have been 412 hours of annual leave and 981 hours of sick leave. The basis for this is the following reconstruction of his leave account:

<u>Date</u>	<u>Annual</u>	<u>Sick</u>
Balance as of May 10, 1975	420	1025
Used - July 21-August 1, 1975	80	--
Used - August 18-29, 1975	--	80
<u>Accrued (9 pay periods)</u>	<u>72</u>	<u>36</u>
Balance	412	981

Mr. Radke states that he did not use 320 hours of leave between May 10 and October 8, 1975. In support of this assertion, he submits a signed statement from Mr. R. L. Van Alphen, his supervisor during this period. Mr. Van Alphen writes:

"I can state with an extremely high degree of certainty that Mr. Radke did not use the amount of annual leave reflected on the SF 1150 form from the USA Finance and Accounting Office, Korea, [dated] 8 Oct 1975.* * *"

The Army does not contend otherwise. In a cover letter dated August 8, 1983, forwarding the submission, the Office of the Comptroller of the Army, Indianapolis, Indiana, states that their review of the record indicates that an error was made in preparing the SF-1150 dated October 8, 1975. However, since the leave records in question have been destroyed, the Office of the Comptroller is unable to verify Mr. Radke's allegation of error by reference to the primary leave documents. For this reason, they have submitted the matter to this Office. At this point we note that generally leave records are retained only for 3 years. That they are not available now to aid in the resolution of this matter is not the fault of Mr. Radke. Mr. Radke was not dilatory in pursuing this matter; rather, the record indicates that he has timely and diligently attempted to have it resolved. However, for reasons that are not apparent, the Army did not follow through on his requests.

The Office of the Comptroller of the Army's request is that we resolve the question concerning the certification of the leave balances to Mr. Radke's credit. We have held that the amount of sick leave with which

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an employee may be credited is primarily a matter for determination by the agency in which he or she is currently employed. Matter of Bonner, 58 Comp. Gen. 741 (1979). That rule is equally applicable to the annual leave balance of an employee. See 32 Comp. Gen. 310, 1953, and B-145621, June 14, 1961. We have recognized that primary leave records are not always available for this purpose. In the Bonner decision, for example, we relied on various decisions permitting reconstruction of leave accounts on the basis of acceptable secondary evidence where official leave records were unavailable to establish the proper leave balances. Bonner reiterated that an agency may base its determination on acceptable secondary evidence such as Time and Attendance Reports, Leave and Earnings Statements, personal leave records, as well as statements of former supervisors or timekeepers indicating leave earned and used. Matter of Jones, B-189288, November 23, 1977. However, whether specific secondary evidence is acceptable is primarily for determination by the employing agency. Matter of Bonner, cited above.

We find no basis to question the statement contained in the letter of August 8, 1983, indicating that there is sufficient evidence submitted by Mr. Radke to establish that an error was made in preparing the SF-1150 in question. And, since a supervisor would ordinarily be aware of a 2-month absence in a 4-month period, it is reasonable to give credence to his supervisor's statement that Mr. Radke did not use the amount of leave reflected on the SF-1150. The initial determination concerning the occurrence of an error was made by the Department of the Army, as the employing agency, in light of the secondary evidence submitted by Mr. Radke. That evidence should also be considered in determining the correct amount of any necessary adjustments to Mr. Radke's annual and sick leave balances since it appears to be the only evidence available at this time which tends to show the correct leave balances.

Milton J. Auer

Acting Comptroller General
of the United States